**Order Type:** 

1660 Agreed Order

**Findings Order Justification:** 

N/A

Media:

**PST** 

**Small Business:** 

Yes

Location(s) Where Violation(s) Occurred:

Casey Ridge Grocery, 27630 Farm-to-Market Road 1485, New Caney, Montogomery

County

Type of Operation:

Convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 23, 2015

Comments Received: No

**Penalty Information** 

**Total Penalty Assessed:** \$30,519

**Amount Deferred for Expedited Settlement:** \$6,103 **Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$24,416

**Total Due to General Revenue: \$0** 

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

**Compliance History Classifications:** 

Person/CN - Satisfactory

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A Applicable Penalty Policy: April 2014

## **Investigation Information**

Complaint Date(s): N/A

**Complaint Information**: N/A

Date(s) of Investigation: April 24, 2015

**Date(s) of NOE(s):** June 5, 2015

## Violation Information

- 1. Failed to monitor underground storage tanks ("USTs") for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].
- 2. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons [30Tex. ADMIN. CODE § 334.50(d)(1)(B)(ii) and Tex. Water Code § 26.3475(c)(1)].
- 3. Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, inconclusive automatic tank gauge ("ATG") leak test results dated November 16, 2014 for the unleaded plus UST indicated a suspected release that was not reported [30 Tex. Admin. Code § 334.72].
- 4. Failed to investigate a suspected release of a regulated substance within 30 days of discovery. Specifically, inconclusive ATG leak test results dated November 16, 2014 for the unleaded plus UST indicated a suspected release that was not investigated [30 Tex. ADMIN. CODE § 334.74].
- 5. Failed to make Stage II records immediately available for review upon request by agency personnel [30 Tex. Admin. Code § 115.246(a)(7) and Tex. Health & Safety Code § 382.085(b)].
- 6. Failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight, and free of liquid and debris. Specifically, the unleaded plus spill bucket was full of liquid [30 Tex. ADMIN. CODE § 334.42(i)].
- 7. Failed to ensure that the UST system is operated, maintained, and managed in a manner that will prevent releases of regulated substances from such systems. Specifically, dispenser nos. 1 and 2 were leaking product from the filters below the dispensers [30 Tex. Admin. Code § 334.48(a)].

## Corrective Actions/Technical Requirements

## **Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures:

- a. Began conducting reconciliation of inventory control records for all USTs on May 6, 2015;
- b. Began maintaining all Stage II vapor recovery records at the Station on May 4, 2015;
- c. Submitted documentation demonstrating that bimonthly inspections of the spill and overfill containers are being conducted and all spill buckets were liquid free on May 6, 2015;
- d. Repaired the leak under dispenser nos. 1 and 2 on April 27, 2015;
- e. Implemented a release detection method for all USTs at the Station on September 3, 2015;
- f. Conducted a tank tightness test on the super unleaded tank on June 15, 2015 and a tank tightness test on the unleaded plus tank on June 22, 2015 with passing results; and
- g. Submitted a release determination report to the TCEQ on August 11, 2015.

## **Technical Requirements:**

The Order will require the Respondent to:

- a. Immediately, establish and implement a process for reporting and investigating suspected releases;
- b. Within 60 days, complete any necessary corrective actions; and
- c. Within 75 days, submit written certification to demonstrate compliance with a. and b.

## Litigation Information

Date Petition(s) Filed: N/A Date Answer(s) Filed: N/A SOAH Referral Date: N/A Hearing Date(s): N/A Settlement Date: N/A

## **Contact Information**

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: James Baldwin, Enforcement Division,

Enforcement Team 7, MC 128, (512) 239-1337; Melissa Cordell, Enforcement Division,

MC 219, (512) 239-2483

TCEQ SEP Coordinator: N/A

Respondent: James Kim, Owner, Casey Ridge Grocery, P.O. Box 1559, New Caney,

Texas 77357

Respondent's Attorney: N/A

#### Penalty Calculation Worksheet (PCW) Policy Revision 4 (April 2014) PCW Revision March 26, 2014 8-Jun-2015 Assigned Screening 15-Jun-2015 **PCW** 4-Sep-2015 **EPA Due** RESPONDENT/FACILITY INFORMATION Respondent James H. Kim dba Casey Ridge Grocery Reg. Ent. Ref. No. RN102225372 Major/Minor Source Minor Facility/Site Region 12-Houston CASE INFORMATION Enf./Case ID No. 50671 No. of Violations 6 Order Type 1660 Docket No. 2015-0885-PST-E Government/Non-Profit No Media Program(s) Petroleum Storage Tank Multi-Media Enf. Coordinator James Baldwin EC's Team Enforcement Team 7 Admin. Penalty \$ Limit Minimum Maximum \$25,000 Penalty Calculation Section TOTAL BASE PENALTY (Sum of violation base penalties) \$31,250 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. **Compliance History** 0.0% Enhancement Subtotals 2, 3, & 7 \$0 No adjustment for Compliance History. Notes 0.0% Enhancement Subtotal 4 Culpability No \$0 Notes The Respondent does not meet the culpability criteria. Good Faith Effort to Comply Total Adjustments Subtotal 5 -\$936 Subtotal 6 \$0 **Economic Benefit** 0.0% Enhancement\* Total EB Amounts Capped at the Total EB \$ Amount Estimated Cost of Compliance SUM OF SUBTOTALS 1-7 \$30,314 Final Subtotal OTHER FACTORS AS JUSTICE MAY REQUIRE 0.7% \$205 Adjustment

Recommend enhancement to capture the avoided costs associated with

violation nos. 2 and 5.

Deferral offered for expedited settlement.

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Final Penalty Amount

Adjustment

Final Assessed Penalty

Reduction

20.0%

\$30,519

\$30,519

-\$6,103

\$24,416

Reduces or enhances the Final Subtotal by the indicated percentage

Notes

Notes

PAYABLE PENALTY

STATUTORY LIMIT ADJUSTMENT

Screening Date 15-Jun-2015

Docket No. 2015-0885-PST-E

PCW

Respondent James H. Kim dba Casey Ridge Grocery

Case ID No. 50671

Reg. Ent. Reference No. RN102225372

**Media [Statute]** Petroleum Storage Tank **Enf. Coordinator** James Baldwin

Policy Revision 4 (April 2014) PCW Revision March 26, 2014

**Compliance History Worksheet** 

	Written notices of violation ("NOVs") with same or similar violations as those in	0	00/
NOVs	the current enforcement action (number of NOVs meeting criteria)	<b>y</b>	0%
	Other written NOVs	0	0%
	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	Ō	0%
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
nd Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
Audits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
		ase Enter Yes or No	· T
	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
	Adjustment Per	centage (Sul	ototal 2)
t Violator (	Subtotal 3)		
No	Adjustment Per	centage (Sul	ototal 3)
liance Histo	ry Person Classification (Subtotal 7)		
Satisfactory	Performer Adjustment Per	centage (Sul	ototal 7)
iance Histo	ry Summary		
ompliance History Notes	No adjustment for Compliance History.		
	Total Compliance History Adjustment Percentage (S	Subtotals 2.	- 3, & 7) [

Respondent James H. Kim dba Casey Ridge Grocery  Case 1D No. 50-51  Reg. Ent. Reference No. RR102225372  Media [Statute] Petroleum Storage Tank  Enf. Coordinator  James Baldwin  Violation Number  Rule Cite(s)  Failed to monitor underground storage tanks (UST) for releases at a frequency of at least cince per month (not to exceed 35 days between each monitoring). Alay,  Violation Description  Failed to monitor underground storage tanks (UST) for releases at a frequency of at least cince per month (not to exceed 35 days between each monitoring). Alay,  Failed to monitor underground storage tanks (UST) for releases at a frequency of at least cince each month, sufficiently accurate to desect a release which equals or exceeds the sum of 1.0% of the total substaince flow-through for the month plast 30 pallons.  See Penalty  See Pen	Screening Date		-0885-PST-E <b>PCV</b>	N
Reg. Ent., Reference No. RN102225727 Media [Statute] Petroleum Storage Tank Enf. Coordinator James Baldwin Violation Number Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(3)(A) and (d)(1)(B)(ii) and Tex. Water Code § 26.3475(c)(1) Falled to monitor underground storage tanks (LIST) for releases at a frequency of at least conce per month fruit to exceed 35 days between each monitoring). Also, frailed to conduct reconcilation of detailed inventory control records at least once each month), sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons.  >> Environmental, Property and Human Health Matrix Harm Release Hajor Moderate Minor Percent Fall-fraction Major Moderate Minor Percent Fall-fraction Major Moderate Minor Percent Fall-fraction Major Moderate Minor F		· · · · · · · · · · · · · · · · · · ·		- 1
Media   Statute   Petroleum Storage Tank   Enf. Coordinator   James Baldwin   Sames Baldwin			PCW Revision March 26, 20	014
Violation Number Rule Cite(s) 30 Tex, Admin. Code § 334.50(b)(1)(4)(4) and (d)(1)(B)(ii) and Tex. Water Code § 26.3473(c)(1)  Fallet to monitor underground storage tanks (UST) for releases at a frequency of at least cnee per month rich to exceed 35 days between each monitoring). Also falled to conduct reconciliation of detailed inventory control records at least once each monitor, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons.  See Penalty 525,000  >> Environmental, Property and Human Health Matrix  Release Major Moderate Minor  Actual Potential Property and Human Health Matrix  Release Major Moderate Minor  Actual Potential Percent 15.0%  >> Programmatic Matrix  Falsification Major Moderate Minor  Percent 0.0%  Matrix Notes Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.  Violation Events  Number of Violation Events 1 52 Number of violation days  Violation Events  Number of Violation Events 1 52 Number of violation days  One quarterly event is recommended from the April 24, 2015 investigation date to the June 15, 2015 screening date.  Good Faith Efforts to Comply 0.0%  One quarterly event is recommended from the April 24, 2015 investigation date to the June 15, 2015 screening date.  The Respondent does not meet the good faith criteria for this violation.  The Respondent does not meet the good faith criteria for this violation.				
Rule Cite(s)   30 Tex. Admin. Code § 334.50(b)(1)(A) and (d)(1)(B)(ii) and Tex. Water Code § 26.3475(c)(1)	Enf. Coordinator			
Failed to monitor underground storage tanks (UST) for releases at a frequency of at least once per month froit to exceed 35 days between each monitoring). Also, failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons.    Base Penalty	Violation Number			
Violation Description   at least once per month (not to exceed 35 days between each monitoring). Also, failed to conduct reconcilation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons.    Sase Penalty   \$25,000	Rule Cite(s)		) and Tex. Water Code	- Holle out out the section of
>> Environmental, Property and Human Health, Matrix   Harm   Release   Major   Moderate   Minor	Violation Description	at least once per month (not to exceed 35 days between failed to conduct reconciliation of detailed inventory cont each month, sufficiently accurate to detect a release white	each monitoring). Also, of records at least once th equals or exceeds the	додому дола дола дола дола дола дола дола дола
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Falsification Major Moderate Minor  Percent 0.0%  Matrix Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.  **Adjustment** \$21,250  **Adjustment** \$21,250  **Adjustment** \$21,250  **Say,750  Violation Events**  Number of Violation Events** 1	Potential	Perc	ent 15.0%	
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Matrix Notes Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.    Adjustment	Falsification		ont 0.00/	
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Notes that are protective of human health or environmental receptors as a result of the violation.    Adjustment	Matrix Human health	or the environment will or could be exposed to pollutants	that would exceed levels	
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Violation Events  Number of Violation Events  1	<u> Chartellation</u>	<u> </u>		
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Number of Violation Events 1 52 Number of violation days    daily	Violation Events			
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weekly monthly quarterly x semiannual annual single event  One quarterly event is recommended from the April 24, 2015 investigation date to the June 15, 2015 screening date.  Good Faith Efforts to Comply 0.0%  Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer Extraordinary Ordinary N/A x (mark with x)  Notes The Respondent does not meet the good faith criteria for this violation.	Number of V	iolation Events 1 52 Num	per of violation days	
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mark only one with an x    quarterly   x   yield   yie				1
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Good Faith Efforts to Comply  O.0%  Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer  Extraordinary  Ordinary  N/A	One quarterly	event is recommended from the April 24, 2015 investigat	on date to the June 15,	
Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer  Extraordinary  Ordinary  N/A x (mark with x)  The Respondent does not meet the good faith criteria for this violation.		2015 screening date.		
Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer  Extraordinary  Ordinary  N/A x (mark with x)  The Respondent does not meet the good faith criteria for this violation.				
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N/A x (mark with x)  The Respondent does not meet the good faith criteria for this violation.				
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this violation.				
Violation Subtotal \$3,750			ith criteria for	
			Violation Subtotal \$3,7	50
Economic Benefit (EB) for this violation Statutory Limit Test	Economic Benefit (EB) for	this violation Stat	utory Limit Test	
Estimated EB Amount \$27 Violation Final Penalty Total \$3,775	Estimate	d EB Amount \$27 Violat	on Final Penalty Total \$3,7	75
This violation Final Assessed Penalty (adjusted for limits) \$3,775		This violation Final Assessed Penal	y (adjusted for limits) \$3,77	75

Media	RN102225372 Petroleum Sto					Percent Interest	Years of
Violation No.	1					rescent interest	Depreciation
						5.0	1
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs			and the second	0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	24-Apr-2015	3-Sep-2015	0.36	\$27	l n/a l	\$27
Notes for DELAYED costs	<b>1</b>					cluding reconciliation hal date is the date o	
Avoided Costs	ANNUAL	IZE [1] avoided	costs before	enterir	ng item (except	for one-time avoic	led costs)
Avoided Costs Disposal	ANNUAL	IZE [1] avoided	costs before	enterir 0.00	ng item (except	for one-time avoid	led costs) \$0
	ANNUAL	IZE [1] avoided	costs before	**********			
Disposal Personnel	ANNUAL	IZE [1] avoided	costs before	0.00	\$0	\$0	\$0
Disposal Personnel	ANNUAL	IZE [1] avoided	costs before	0.00	\$0 \$0	\$0 \$0	\$0 \$0
Disposal Personnel spection/Reporting/Sampling	ANNUAL	IZE [1] avoided	costs before	0.00 0.00 0.00	\$0 \$0 \$0	\$0 \$0 \$0	\$0 \$0 \$0
Disposal Personnel spection/Reporting/Sampling Supplies/Equipment	ANNUAL	IZE [1] avoided	costs before	0.00 0.00 0.00 0.00 0.00	\$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0
Disposal Personnel spection/Reporting/Sampling Supplies/Equipment Financial Assurance [2]	ANNUAL	IZE [1] avoided	costs before	0.00 0.00 0.00 0.00 0.00	\$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0

Screening Date		
кеspondent Case ID No.	James H. Kim dba Casey Ridge Grocery	Policy Revision 4 (April 2014) PCW Revision March 26, 2014
Reg. Ent. Reference No.		FCW REVISION PLATER 20, 2014
Media [Statute]	Petroleum Storage Tank	
Enf. Coordinator Violation Number	James Baldwin	
Rule Cite(s)	30 Tex. Admin. Code § 334.72	
Violation Description	Falled to report a suspected release to the TCEQ within 24 hor Specifically, inconclusive automatic tank gauge ("ATG") leak to November 16, 2014 for the unleaded plus UST was not	est results dated
		Base Penalty \$25,000
>> Environmental, Prope	ty and Human Health Matrix	
Release	<b>Harm</b> Major Moderate Minor	
OR Actual		
Potential	Percent	0.0%
>>Programmatic Matrix		
Falsification	Major Moderate Minor  x Percent	5.0%
	Yercent	3.0%
Matrix		
Notes	100% of the rule requirement was not met.	
		USA Bario Bario Bario Bario Bili Dia B
	Adjustment	\$23,750
TOWN THE PROPERTY OF THE PROPE		\$1,250
VE-1-4 F		
Violation Events		
Number of	/iolation Events 1 Number of	violation days
	daily	
	weekly	
mark only one	monthly	ti B B
with an x	quarterly Violations Violation Viola	tion Base Penalty \$1,250
	annual	
	single event x	
	One single event is recommended.	
		ones en distributation de distributación de
<b>Good Faith Efforts to Com</b>	ply 0.0%	Reduction \$0
	Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer Extraordinary	
	Ordinary	
	N/A (mark with x)	
	The Respondent does not meet the good faith crit	eria for
	Notes this violation.	
	Constitution and Constitution C	
	<b>\</b>	/iolation Subtotal \$1,250
Economic Benefit (EB) for	this violation Statutor	y Limit Test
Estimat	ed EB Amount \$104 Violation Fi	nal Penalty Total \$1,258
222222222222222222222222222222222222222	This violation Final Assessed Penalty (ad	justed for limits) \$1,258

		JUNIONNE	Denent		rksheet		
Respondent	James H. Kim	dba Casey Ridge	Grocery				
Case ID No.	50671						
eg. Ent. Reference No.	RN102225372						
77	Petroleum Sto						Years of
Violation No.		rage raint				<b>Percent Interest</b>	Depreciation
Violation No.	<b>Z</b>						
						5.0	
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Record Resping System							
Training/Sampling				0.00	\$0	n/a	\$0
				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0 \$0	n/a n/a	\$0 \$0
Training/Sampling Remediation/Disposal	\$100	24-Apr-2015		0.00 0.00 0.86	\$0 \$0 \$4	n/a n/a n/a	\$0 \$0 \$4
Training/Sampling Remediation/Disposal Permit Costs Other (as needed)  Notes for DELAYED costs	Estimated del req	ayed cost to estal uired is the invesi	olish and implen tigation date an	0.00 0.00 0.86 nent pr d the fi	\$0 \$0 \$4 ocedures for repo nal date is the est	n/a n/a n/a n/a rting suspected rele imated compliance o	\$0 \$0 \$4 ases. The date date.
Training/Sampling Remediation/Disposal Permit Costs Other (as needed)  Notes for DELAYED costs  Avoided Costs	Estimated del req	ayed cost to estal uired is the invesi	olish and implen tigation date an	0.00 0.00 0.86 nent pr d the fi	\$0 \$0 \$4 ocedures for repo nal date is the est ng item (except	n/a n/a n/a n/a rting suspected rele imated compliance of	\$0 \$0 \$4 ases. The date date.
Training/Sampling Remediation/Disposal Permit Costs Other (as needed)  Notes for DELAYED costs  Avoided Costs Disposal	Estimated del req	ayed cost to estal uired is the invesi	olish and implen tigation date an	0.00 0.00 0.86 nent produced the fi	\$0 \$0 \$4 occedures for repo nal date is the est ng item (except \$0	n/a n/a n/a n/a rting suspected releatimated compliance of	\$0 \$0 \$4 ases. The date date.
Training/Sampling Remediation/Disposal Permit Costs Other (as needed)  Notes for DELAYED costs  Avoided Costs Disposal Personnel	Estimated del req	ayed cost to estal uired is the invesi	olish and implen tigation date an	0.00 0.86 0.86 nent produce file d the file enterir 0.00 0.00	\$0 \$0 \$4 ocedures for repo nal date is the est ng item (except \$0 \$0	n/a n/a n/a n/a n/a rting suspected rele imated compliance of for one-time avoid \$0 \$0	\$0 \$0 \$4 ases. The date date. ded costs) \$0 \$0
Training/Sampling Remediation/Disposal Permit Costs Other (as needed)  Notes for DELAYED costs  Avoided Costs Disposal Personnel spection/Reporting/Sampling	Estimated del req	ayed cost to estal uired is the invesi	olish and implen tigation date an	0.00 0.86 nent prod the fi 0.00 0.00 0.00	\$0 \$0 \$4 ocedures for repo nal date is the est ng item (except \$0 \$0 \$0	n/a n/a n/a n/a rting suspected rele imated compliance of for one-time avoid \$0 \$0 \$0 \$0	\$0 \$0 \$4 ases. The date date. ded costs) \$0 \$0
Training/Sampling Remediation/Disposal Permit Costs Other (as needed)  Notes for DELAYED costs  Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/Equipment	Estimated del req	ayed cost to estal uired is the invesi	olish and implen tigation date an	0.00 0.86 nent produce the fill o.00 0.00 0.00 0.00	\$0 \$0 \$4 ocedures for repo nal date is the est so \$0 \$0 \$0	n/a n/a n/a n/a rting suspected rele imated compliance of for one-time avoid \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$4 asses. The date date. <b>led costs)</b> \$0 \$0 \$0
Training/Sampling Remediation/Disposal Permit Costs Other (as needed)  Notes for DELAYED costs  Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/Equipment Financial Assurance [2]	Estimated del req	ayed cost to estal uired is the invesi IZE [1] avoided	ollsh and implen tigation date an costs before (	0.00 0.86 nent produce the fill o.00 0.00 0.00 0.00 0.00	\$0 \$0 \$4 occedures for repo nal date is the est 10 \$0 \$0 \$0 \$0 \$0	n/a n/a n/a n/a n/a rting suspected rele imated compliance of for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$4 ases. The date date. led costs) \$0 \$0 \$0 \$0
Training/Sampling Remediation/Disposal Permit Costs Other (as needed)  Notes for DELAYED costs  Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/Equipment	Estimated del req	ayed cost to estal uired is the invesi IZE [1] avoided	olish and implen tigation date an	0.00 0.86 nent produce the fill o.00 0.00 0.00 0.00	\$0 \$0 \$4 ocedures for repo nal date is the est so \$0 \$0 \$0	n/a n/a n/a n/a rting suspected rele imated compliance of for one-time avoid \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$4 asses. The date date. <b>led costs)</b> \$0 \$0 \$0

Screening Date		PCW
Case ID No. Reg. Ent. Reference No.	50671 RN102225372 Petroleum Storage Tank James Baldwin	olicy Revision 4 (April 2014) CW Revision March 26, 2014
Rule Cite(s)		
Violation Description	Failed to investigate a suspected release of a regulated substance within 30 days discovery. Specifically, inconclusive ATG leak test results dated November 16, 20 for the unleaded plus UST indicated a suspected release that was not investigate	114
	Base Pena	lty \$25,000
Release OR Actual Potential		
>> Programmatic Matrix Falsification	Major Moderate Minor Percent 0.0%	
900000000000000000000000000000000000000	h or the environment will or could be exposed to pollutants that would exceed leve protective of human health or environmental receptors as a result of the violation.  Adjustment \$21,7	
		\$3,750
Violation Events		
Number of '	Violation Events 6 182 Number of violation days	Automorphic Co.
mark only one with an x	daily weekly monthly x quarterly Violation Base Pena semiannual annual Single event	lty \$22,500
Six monthly	events are recommended from the release investigation due date of December 15 2014 to the June 15, 2015 screening date.	<b>*</b>
Good Faith Efforts to Com	Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer Extraordinary Ordinary N/A x (mark with x)  Notes The Respondent does not meet the good faith criteria for this violation.	on \$0
**Compression	Violation Subto	\$22,500
Economic Benefit (EB) for	this violation Statutory Limit Test	
Estimat	ed EB Amount \$305 Violation Final Penalty Tol	
	This violation Final Assessed Penalty (adjusted for limit	(s) \$22,652

	E	conomic	Benefit	Wo	rksheet		
		dba Casey Ridge	Grocery		- -		
Case ID No.							
Reg. Ent. Reference No.							
	Petroleum Sto	rage Tank				Percent Interest	Years of
Violation No.	3						Depreciation
						5.0	15
	Ttem Cost	Date Required	Final Date	Vrs	Interest Saved	Onetime Costs	EB Amount
Item Description							
ttem bescription	wo commas or \$						
Delayed Costs		T I		0.00	Γ	\$0	\$0
Equipment Buildings		1		0.00	\$0 \$0	\$0 \$0	\$0 \$0
Other (as needed)				0.00	\$0	\$0 \$0	\$0 \$0
Engineering/Construction				0.00	\$0 \$0	\$0 \$0	\$0 \$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0 \$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	15-Dec-2014	4-Mar-2016	1.22	\$305	n/a	\$305
Notes for DELAYED costs	P1 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2					omit a report. The o estimated date of c	
Avoided Costs	ANNUAL	IZE [1] avoided	costs before	enterii	ng item (except	for one-time avoid	led costs)
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
nspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0,00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs							
						aggersteine teete Wilhit bilberteine teete in	
Approx. Cost of Compliance		\$5,000			TOTAL		\$305

Screening Date		PCW
Case ID No. Reg. Ent. Reference No. Media [Statute] Enf. Coordinator	50671 PCW RN102225372 Petroleum Storage Tank James Baldwin	y Revision 4 (April 2014) Revision March 26, 2014
Violation Number Rule Cite(s)	4 30 Tex. Admin. Code § 115.246(a)(7) and Tex. Health & Safety Code § 382.085(b)	1
Violation Description	Failed to make Stage II records immediately available for review upon request by agency personnel.	
	Base Penalty	\$25,000
Release OR Actual	HORIZONI HITTORIA MINISTERIA	
Potential	Percent 0.0%	
>>Programmatic Matrix Falsification	Major Moderate Minor  x Percent 5.0%	***************************************
Matrix Notes	100% of the rule requirement was not met.	
	Adjustment \$23,750	]
		\$1,250
Violation Events		
Number of	Violation Events 1 10 Number of violation days	
mark only one with an x	daily weekly monthly quarterly semiannual annual single event  X	\$1,250
One single	event is recommended based on documentation of the violation during the April 24, 2015 investigation.	
Good Faith Efforts to Com	Piy 25.0%  Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer  Extraordinary  Ordinary x (mark with x)  The Respondent came into compliance on May 4, 2015, prior to the Notice of Enforcement ("NOE") dated June 5, 2015.	\$312
	Violation Subtotal	\$938
Economic Benefit (EB) for	this violation Statutory Limit Test	
Estimat	ed EB Amount \$1 Violation Final Penalty Total	\$944
	This violation Final Assessed Penalty (adjusted for limits)	\$944

	Petroleum Sto	rage Tank				Percent Interest	Years of
Violation No.	4					5.0	Depreciation 1
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
Delayed Costs							
Equipment		la company		0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	24-Apr-2015	4-May-2015	0.03	\$1	n/a	\$1
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)  Notes for DELAYED costs	Estimated cos	t to maintain Stag				n/a quired is the investi	\$0 gation date an
Notes for DELAYED costs  Avoided Costs Disposal			the final date	the Sta is the enterin	ition. The date red date of compliance of item (except \$0	quired is the investige.  For one-time avoid	gation date an
Notes for DELAYED costs  Avoided Costs  Disposal  Personnel			the final date	the Sta is the enterin	ition. The date red date of compliance of item (except	n/a quired is the investig a. for one-time avoic	gation date an
Notes for DELAYED costs  Avoided Costs Disposal Personnel spection/Reporting/Sampling			the final date	the Sta is the entering 0.00 0.00	ition. The date red date of compliance of item (except \$0 \$0	n/a quired is the investion.  for one-time avoice \$0 \$0	gation date an
Notes for DELAYED costs  Avoided Costs  Disposal			the final date	the State is the entering 0.00 0.00 0.00	tion. The date red date of compliance of item (except \$0 \$0 \$0	n/a quired is the investiges.  for one-time avoid \$0 \$0 \$0 \$0	gation date an  led costs)  \$0 \$0 \$0 \$0
Notes for DELAYED costs  Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/Equipment			the final date	the Sta is the entering 0.00 0.00 0.00	tion. The date redate of compliance  ng item (except \$0 \$0 \$0 \$0 \$0 \$0	n/a quired is the investige.  For one-time avoid \$0 \$0 \$0 \$0 \$0	gation date an  ied costs)  \$0  \$0  \$0  \$0
Avoided Costs  Disposal Personnel pection/Reporting/Sampling Supplies/Equipment Financial Assurance [2]			the final date	the Stars the stars the stars the stars of t	tion. The date redate of compliance  ng item (except \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	quired is the investiges.  for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	gation date an  ded costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0

Screening Date	- Contract to the contract of	PCW
Case ID No. Reg. Ent. Reference No.	50671 PCW RN102225372 Petroleum Storage Tank	cy Revision 4 (April 2014) / Revision March 26, 2014
Violation Number Rule Cite(s)	5 30 Tex. Admin. Code § 334.42(i)	
Violation Description	Failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides bottoms, and any penetration points are maintained liquid-tight, and free of liquid and debris. Specifically, the unleaded plus spill bucket was full of liquid.	
	Base Penalt	y \$25,000
>> Environmental, Prope	ty and Human Health Matrix Harm	
OR Release OR Actual Potential	Major Moderate Minor	
>>Programmatic Matrix Falsification	Major Moderate Minor	
rasincation	Percent 0.0%	
	or the environment will or could be exposed to significant amounts of pollutants tha eed levels that are protective of human health or environmental receptors as a resul of the violation.	
	Adjustment \$23,75	0
		\$1,250
Violation Events		
Number of	/iolation Events 1 12 Number of violation days	
mark only one with an x	daily weekly monthly quarterly semiannual annual single event	\$1,250
One quarterly	event is recommended from the April 24, 2015 investigation date to the May 6, 201 date of compliance.	
Good Faith Efforts to Com	Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer Extraordinary	\$312
	Ordinary X N/A (mark with x)	
	Notes The Respondent came into compliance on May 6, 2015, prior to the NOE dated June 5, 2015.	
	Violation Subtota	\$938
Economic Benefit (EB) for		
Estimat	ed EB Amount \$105 Violation Final Penalty Tota	
	This violation Final Assessed Penalty (adjusted for limits)	) \$944]

	E	conomic	Benefit	Wo	rksheet		
		dba Casey Ridge	Grocery				
Case ID No.	50671						
eg. Ent. Reference No.	RN102225372	:			,		**********
Media	Petroleum Sto	rage Tank			*	Percent Interest	Years of
Violation No.	5					r creciie amerese	Depreciation
						5.0	15
	Item Cost	Date Required	Final Date	Vrs	Interest Saved	Onetime Costs	EB Amount
Item Description							
atem pestription	INO COMMINAS OF S						
Delayed Costs Equipment		1		0.00	f \$0	\$0 T	\$0
Buildings				0.00	\$0 \$0	\$0	\$0 \$0
Other (as needed)				0.00	\$0 \$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land	<del> </del>			0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs  Avoided Costs	ANNUAL	IZE [1] avoided	costs before	-		for one-time avoid	
Disposal		4		0.00	\$0 \$0	\$0 \$0	<u>\$0</u> \$0
Personnel				0.00	\$0 \$0	\$0 \$0	\$0 \$0
spection/Reporting/Sampling Supplies/Equipment		1		0.00	\$0 \$0	\$0 \$0	\$0 \$0
Financial Assurance [2]				0.00	\$0 \$0	\$0	\$0 \$0
ONE-TIME avoided costs [3]	\$100	23-Feb-2015	24-Apr-2015	1.08	\$5	\$100	\$105
Other (as needed)	7,00		417101 4040	0.00	\$0	\$0	\$0
Notes for AVOIDED costs			e required is 60	days b		ps, manways, overs ation date and the fi	
Approx. Cost of Compliance		\$100					

Screening Date		PCW
	James H. Kim dba Casey Ridge Grocery	Policy Revision 4 (April 2014)
Case ID No. Reg. Ent. Reference No.		PCW Revision March 26, 2014
	Petroleum Storage Tank	
Enf. Coordinator		
Violation Number	6 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6	
Rule Cite(s)	30 Tex. Admin. Code § 334.48(a)	
Violation Description	Failed to ensure that the UST system is operated, maintained, and managed i manner that will prevent releases of regulated substances from such system Specifically, dispenser nos. 1 and 2 were leaking product from the filters below dispensers.	ıs.
	Base Per	nalty \$25,000
>> Environmental, Proper	ty and Human Health Matrix	
Release	<b>Harm</b> Major Moderate Minor	
OR Actual		
Potential	Percent 5.0%	
>>Programmatic Matrix		
Falsification	Major Moderate Minor	
[3882212.59838]]]	Percent 0.0%	
<b></b>		
	n or the environment has been exposed to insignificant amounts of pollutants tha yels that are protective of human health or environmental receptors as a result o	
Notes Notes	violation.	1 010
<u> </u>		
	Adjustment \$23	3,750
		\$1,250
Violation Events		
Number of '	Violation Events 1 3 Number of violation days	
	daily	
Management of the Control of the Con	weekly monthly monthly	
mark only one with an x	quarterly X Violation Base Per	nalty \$1,250
- With all X	semiannual semiannual	
	annual	
	single event	
One questor	ly event is recommended from the April 24, 2015 investigation to the April 27, 20	15
One quarter	date of compliance.	<b>***</b>
<u>Limitation</u>	<u>. Religitifille (a. e. 1111) Barilli (1111) Barill</u>	
Good Faith Efforts to Com	piy 25.0% Redu	ction \$312
	Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer	
	Extraordinary	
	Ordinary x N/A (mark with x)	
	Notes The Respondent came into compliance on April 27, 2015, prior to the NOE dated June 5, 2015.	
	Violation Subt	total \$938
Economic Benefit (EB) for	this violation Statutory Limit Tes	t
Estimat	ed EB Amount \$0 Violation Final Penalty T	otal \$944
	This violation Final Assessed Penalty (adjusted for lin	nits) \$944]
		.acc=acc=0000000000000000000000000000000

	Late Control of the C	CONOMIC	benent	WO	rksheet		
Respondent	James H. Kim	dba Casey Ridge	Grocery				
Case ID No.	50671						
ea. Ent. Reference No.	RN102225372						
	Petroleum Sto						Years of
Violation No.						Percent Interest	Depreciation
Pioletion ito:	· ·					5,0	
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description							
र परिचार के प्राप्त के प्राप्त के प्राप्त के किया है जिसके हैं है जिसके के उसके के किया है जा किया है है जा किय जान के प्राप्त के प्राप्त के प्राप्त के जान के प्राप्त के अपने के अपने के अपने के अपने किया जाने के प्राप्त के							99998599911.51 b105011111411111111111
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$12	24-Apr-2015	27-Apr-2015	0.01	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
							40
Other (as needed)	Estimated cost			0,00 ser nos	\$0 1 and 2. The dat	n/a te required is the inv	\$0
Notes for DELAYED costs  Avoided Costs  Disposal Personnel			and the final da	er nos te is th	\$0 . 1 and 2. The dat he date of compliar	n/a te required is the invoce.  for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0	\$0 vestigation date
Notes for DELAYED costs  Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/Equipment			and the final da	0.00 ser nos. ite is the enterination of the 0.00 0.00 0.00 0.00	\$0  1 and 2. The dat the date of compliant the following item (except \$0 \$0 \$0 \$0 \$0	n/a te required is the invace.  for one-time avoid \$0 \$0 \$0 \$0 \$0	\$0  vestigation date  ded costs)  \$0  \$0  \$0  \$0
Avoided Costs  Disposal Personnel spection/Reporting/Sampling Supplies/Equipment Financial Assurance [2]			and the final da	enterii 0.00 0.00 0.00 0.00 0.00 0.00 0.00	\$0  1 and 2. The dat le date of compliar  fig item (except \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	n/a te required is the invoce.  for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0	\$0  vestigation date  ded costs)  \$0  \$0  \$0  \$0  \$0
Avoided Costs  Avoided Costs  Disposal Personnel spection/Reporting/Sampling Supplies/Equipment Financial Assurance [2] ONE-TIME avoided costs [3]			and the final da	enteria   0.00   0.00   0.00   0.00   0.00   0.00   0.00   0.00   0.00	\$0  1 and 2. The dat be date of compliar so	n/a te required is the invoce.  for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0  vestigation date  ded costs)  \$0  \$0  \$0  \$0  \$0  \$0

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# CEQ Compliance History Report

PUBLISHED Compliance History Report for CN601191117, RN102225372, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, CN601191117, Kim, James H

Classification: SATISFACTORY

Rating: 0.48

or Owner/Operator: **Regulated Entity:** 

RN102225372, Casey Ridge Grocery

Classification: HIGH

Rating: 0.00

**Complexity Points:** 

Repeat Violator: NO

CH Group:

14 - Other

Location:

27630 Farm-to-Market Road 1485, New Caney, Montgomery County, Texas

TCEQ Region:

**REGION 12 - HOUSTON** 

ID Number(s):

**REGISTRATION 34199** 

PETROLEUM STORAGE TANK REGISTRATION

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION

1700726

Compliance History Period: September 01, 2009 to August 31, 2014

Rating Year: 2014

Rating Date: 09/01/2014

Date Compliance History Report Prepared: June 10, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 10, 2010 to June 10, 2015

TCEO Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: James Baldwin

Phone: (512) 239-1337

### **Site and Owner/Operator History:**

1) Has the site been in existence and/or operation for the full five year compliance period?

YES

2) Has there been a (known) change in ownership/operator of the site during the compliance period?

NO

3) If **YES** for #2, who is the current owner/operator?

N/A

4) If YES for #2, who was/were the prior

N/A

owner(s)/operator(s)?

5) If YES, when did the change(s) in owner or operator N/A

### Components (Multimedia) for the Site Are Listed in Sections A - J

Final Orders, court judgments, and consent decrees:

N/A

**B.** Criminal convictions:

N/A

C. Chronic excessive emissions events:

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1

January 20, 2012

(970899)

Item 2

March 01, 2012

(981854)

Item 3

May 11, 2012

(988440)

Item 4

November 10, 2014

(1204493)

### E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

**Sites Outside of Texas:** 

N/A

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
JAMES H. KIM DBA CASEY	<b>§</b>	
RIDGE GROCERY	§.	
RN102225372	§	ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2015-0885-PST-E

### I. JURISDICTION AND STIPULATIONS

On \_\_\_\_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding James H. Kim dba Casey Ridge Grocery ("Respondent") under the authority of Tex. Health & Safety Code ch. 382 and Tex. Water Code chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

- 1. The Respondent owns and operates a convenience store with retail sales of gasoline at 27630 Farm-to-Market Road 1485 in New Caney, Montgomery County, Texas (the "Station").
- 2. The Respondent's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in Tex. Health & Safety Code § 382.003(12).
- 3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
- 4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 10, 2015.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Thirty Thousand Five Hundred Nineteen Dollars (\$30,519) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Hundred Eighty-Six Dollars (\$686) of the administrative penalty and Six Thousand One Hundred Three Dollars (\$6,103) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Twenty-Three Thousand Seven Hundred Thirty Dollars (\$23,730) of the administrative penalty shall be payable in 35 monthly installments of Six Hundred Seventy-Eight Dollars (\$678) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable upon without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

- 7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 Tex. ADMIN. CODE § 70.10(a).
- 9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:
  - a. Began conducting reconciliation of inventory control records for all USTs on May 6, 2015;
  - b. Began maintaining all Stage II vapor recovery records at the Station on May 4, 2015;
  - c. Submitted documentation demonstrating that bimonthly inspections of the spill and overfill containers are being conducted and all spill buckets were liquid free on May 6, 2015;
  - d. Repaired the leak under dispenser nos. 1 and 2 on April 27, 2015;
  - e. Implemented a release detection method for all USTs at the Station on September 3, 2015.

- f. Conducted a tank tightness test on the super unleaded tank on June 15, 2015 and a tank tightness test on the unleaded plus tank on June 22, 2015 with passing results; and
- g. Submitted a release determination report to the TCEQ on August 11, 2015.
- 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
- 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

### II. ALLEGATIONS

As owner and operator of the Station, the Respondent is alleged to have:

- 1. Failed to monitor USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on April 24, 2015.
- 2. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, in violation of 30 Tex. Admin. Code § 334.50(d)(1)(B)(ii) and Tex. Water Code § 26.3475(c)(1), as documented during an investigation conducted on April 24, 2015.
- 3. Failed to report a suspected release to the TCEQ within 24 hours of discovery, in violation of 30 Tex. Admin. Code § 334.72, as documented during an investigation conducted on April 24, 2015. Specifically, inconclusive automatic tank gauge ("ATG") leak test results dated November 16, 2014 for the unleaded plus UST indicated a suspected release that was not reported.
- 4. Failed to investigate a suspected release of a regulated substance within 30 days of discovery, in violation of 30 Tex. Admin. Code § 334.74, as documented during an investigation conducted on April 24, 2015. Specifically, inconclusive ATG leak test results dated November 16, 2014 for the unleaded plus UST indicated a suspected release that was not investigated.
- 5. Failed to make Stage II records immediately available for review upon request by agency personnel, in violation of 30 Tex. ADMIN. CODE § 115.246(a)(7) and Tex. HEALTH &

James H. Kim dba Casey Ridge Grocery DOCKET NO. 2015-0885-PST-E Page 4

SAFETY CODE § 382.085(b), as documented during an investigation conducted on April 24, 2015.

- 6. Failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight, and free of liquid and debris, in violation of 30 Tex. ADMIN. CODE § 334.42(i), as documented during an investigation conducted on April 24, 2015. Specifically, the unleaded plus spill bucket was full of liquid.
- 7. Failed to ensure that the UST system is operated, maintained, and managed in a manner that will-prevent releases of regulated substances from such systems, in violation of 30 Tex. Admin. Code § 334.48(a), as documented during an investigation conducted on April 24, 2015. Specifically, dispenser nos. 1 and 2 were leaking product from the filters below the dispensers.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: James H. Kim dba Casey Ridge Grocery, Docket No. 2015-0885-PST-E" to:

Financial Administration Division, Revenue Operations Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, establish and implement a process for reporting and investigating suspected releases, in accordance with 30 Tex. Admin. Code § 334.72;
  - b. Within 60 days after the effective date of this Agreed Order, complete any necessary corrective actions as may be required in accordance with 30 TEX. ADMIN. CODE §§ 334.76 through 334.81; and

James H. Kim dba Casey Ridge Grocery DOCKET NO. 2015-0885-PST-E Page 5

c. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I-am-aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team Enforcement Division, MC 149A Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

with a copy to:

Waste Section Manager Houston Regional Office Texas Commission on Environmental Quality 5425 Polk Avenue, Suite H Houston, Texas 77023-1486

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
- 4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director.

James H. Kim dba Casey Ridge Grocery DOCKET NO. 2015-0885-PST-E Page 6

The determination of what constitutes good cause rests solely with the Executive Director.

- 6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- This Agreed Order may be executed in separate and multiple counterparts, which 7. together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
- 8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

	For the Commission	Date	Military Control of the Control of t
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	agree to the attached Agreed Order on b do agree to the terms and conditions spe	rstand the attached Agreed Order. I am au behalf of the entity indicated below my sign becified therein. I further acknowledge that unt, is materially relying on such represent	ature, and I the TCEO, in
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	James H. Kim dba Casey Ridge Grocery	7	

**Instructions**: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.